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Preparatory Committee
Fourth session
Geneva, 19-30 April 1993
Item 5 of the provisional agenda

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Note by the Secretariat

Statement submitted by non-governmental organizations concerned with human rights in the Asian region

1. The General Assembly, at its forty-fifth and forty-sixth sessions, requested, among others, non-governmental organizations concerned with human rights to undertake reviews and submit recommendations on the World Conference and its preparation to the Preparatory Committee through the Secretary-General.

2. The attention of the Preparatory Committee is drawn to the recommendations submitted by non-governmental organizations in the Asian region in a statement entitled "Human Rights in Asia: the Struggle for Human Dignity" attached to the present note. The statement has been endorsed by 202 non-governmental organizations in the Asian region, as of the date of the preparation of this document. It will also be submitted to the Regional Meeting for Asia, scheduled to take place in Bangkok from 29 March to 2 April 1993.

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Annex

HUMAN RIGHTS IN ASIA: THE STRUGGLE FOR HUMAN DIGNITY

1. The World Conference on Human Rights will be an occasion to re-affirm humanity's commitment to the values and principles embodied in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other such covenants and declarations which seek to protect and promote the dignity of the human being. It will also be an occasion to reiterate that human rights are indivisible and interdependent and therefore need to be pursued in a holistic manner.

Concerns

2. A holistic, integrated approach to human rights within the Asian context would demand urgent and equal attention to the economic and social rights of the people of the continent. For Asia is where the majority of the world's poor live. In spite of the economic and social progress achieved in various countries, a significant segment of Asia's population does not enjoy some of the most basic economic and social rights - including the right to adequate food, clothing and housing, the right to work, to fair wages, to health, to education.

3. Indeed, in some parts of Asia, poverty is so severe that the poor have become trapped in contemporary forms of "slavery" such as bonded labour, child labour and child prostitution. Poverty is also one of the direct causes of the cruel exploitation of female labour in certain sectors of the economy.

4. Even when the incidence of absolute poverty has been reduced, the gap between "haves" and "have-nots" appears to be getting wider especially in societies where wealth and power are increasingly concentrated in the hands of the elites. Elite-oriented development of this sort marginalizes a significant segment of society. It also leads to environmental degradation which in turn affects adversely the economic and social rights of present and future generations.

5. The situation is made worse when emphasis is given to military expenditure in the national budget. There are many societies in Asia where the growth of militarism has deprived the masses of their basic human rights, including their economic and social rights.

6. While the denial and deprivation of economic and social rights is a matter of grave concern, Asian non-governmental organizations are equally distressed by the gross violation of the civil and political rights of people in the region. Most of the time, it is the State that is responsible for this. This is especially true of military dictatorships and states with marked authoritarian characteristics. Extra-judicial executions, involuntary disappearances, torture, detention without trial or charge, and the use of emergency regulations and security laws are not uncommon. There are also cases where activists championing the cause of human dignity and social justice are subjected to harassment and intimidation. In some instances, they are banished from their country or forced into exile or even physically

eliminated. All this shows that in various parts of Asia there is very little tolerance of political dissent.

7. However, civil and political rights and indeed, all other human rights are in greatest jeopardy in those societies which are embroiled in armed conflict. Apart from the severe restrictions imposed upon the rights of the people by the opposing forces, armed conflicts invariably result in the death of thousands of innocent human beings and the massive displacement of entire communities. Consequently, there has been an explosion of refugees in the region who are often the victims of every conceivable human rights violation.

8. In certain parts of the region, ethnic minorities find that their cultural and religious rights are curbed and curtailed by the authorities. Ethnic conflicts have sometimes eroded the cultural integrity of whole communities. Every now and then, a mega-development project threatens the cultural identity and heritage of a particular indigenous community with deep roots in the history and traditions of the land. Land rights are, after all, at the very heart of the struggle of indigenous communities for human dignity.

9. The situation facing ethnic minorities and indigenous communities shows that the defence of human rights in Asia must necessarily go beyond the rights of the individual. At stake, are not just the cultural but also the economic, social, civil and political rights of whole collectivities. There are also groups within societies - like the Dalits of India and the Buraku of Japan - subjected to long centuries of discrimination and oppression who are struggling to assert their collective dignity. Even in the case of women, often victims of gender discrimination and outmoded cultural and religious practices, their primary quest is to secure their full rights as a community of human beings.

10. More specifically, women as a collectivity want to be seen and accepted as people with the capacity to decide and to act on their own behalf. They want equal access to resources and the political, economic and social support to develop their full potential as human beings. To secure their legitimate rights as a collective group, women realize that there are formidable obstacles in almost every sphere of society which have to be overcome in the interest of equality and justice.

11. Collective rights in Asia are fought at yet another level. Within the international system, the Asian state is often forced to articulate the collective rights of its citizens in the face of glaring global iniquities. Since the international system allows a privileged minority in the North to control and dominate the rest of humanity it circumscribes the rights of the people of the South, a huge portion of whom are in Asia. The people in most of Asia have very little freedom to determine their own destinies in an international system dominated by institutions directed by the elite of the North such as the United Nations Security Council, the Group of Seven, the International Monetary Fund (IMF), the World Bank and the General Agreement on Tariffs and Trade (GATT). Dominance of this sort, which expresses itself in almost every sphere of international relations, had made most Asian states dependent upon the North. Nothing underscores this dependence more than the debt situation. In order to service debts to rapacious lending agencies in the North, certain countries in Asia have no choice but to divert their meagre

resources from economic and social programmes vital for the very survival of their people. Thus, an unjust international system threatens the most fundamental of all human rights - the right to life - of millions of human beings across the continent.

Recommendations

12. Arising from our concern for, and commitment to, human rights in Asia, we have chosen to submit the following recommendations to the World Conference on Human Rights:

A. Asian NGOs hope that the World Conference will persuade:

1. Asian governments (which have not ratified the two principal covenants) to ratify the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its optional protocols. The few countries which have already ratified the two covenants should ensure their effective implementation.

2. Asian governments to ratify some of the other United Nations conventions like the Convention against Torture, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. These governments should also be persuaded to ratify relevant International Labour Organisation (ILO) conventions. Ratification, needless to say, should be followed by effective implementation.

3. Asian governments to revoke laws and eliminate policies which are detrimental to the full realization of the economic, social, cultural, civil and political rights of their people. They should instead try to formulate strategies of development which are compatible with the whole gamut of human rights. These should be part of a development paradigm which seeks to enhance human dignity rather than maximise profits.

Enhancing human dignity and promoting human rights would also require other measures. It would be important to ensure the independence of the judiciary, to protect the freedom of the media and to strengthen public accountability. Certain minimum norms of democratic conduct should be observed by all administrative and judicial institutions.

At the same time, Asian governments should take immediate steps to establish a regional inter-government mechanism for the promotion and protection of human rights. As an initial move, a study should be commissioned which would examine various aspects of such a mechanism. Asian governments should facilitate the active involvement of NGOs in the preparatory stages as well as in the functioning of an intergovernmental regional mechanism as and when it is established.

4. Asian governments to undertake major structural changes and initiate fundamental social reforms which will strengthen human rights and enhance human dignity. In this connection, it is important to stress that wherever there are contemporary forms of slavery, the governments concerned should establish a clear time-frame for their total and complete eradication. All

governments in the region should also be persuaded to eradicate or at least reduce substantially, poverty and illiteracy within a certain time-frame.

B. Asian NGOs hope that the World Conference will urge:

1. Major industrial powers and important lending agencies in the North to write off the external debts of chronically poor nations in the South. Other debtor-nations in the South should be allowed to re-schedule their debt payments. In this way, the poor in the South will have a better chance of enjoying some of their basic rights as human beings.

2. Powerful states which control the United Nations to help restructure the Security Council so that it becomes a truly democratic institution capable of reflecting the genuine aspirations of the vast majority of humanity. Towards this end, the veto and permanent membership within the Security Council should be abolished. Security Council membership should take into account present demographic realities and the need for effective regional representation.

The powers of the United Nations General Assembly, which represents all nations and peoples, should also be enhanced especially in matters pertaining to international security, politics and economics. Only the General Assembly should have the authority to mandate the United Nations to use force in the resolution of any international conflict. International economic institutions should be brought under the purview of the General Assembly and a restructured Security Council. The United Nations should play a bigger and more important role in global economic management.

C. Asian NGOs hope that the World Conference will advise:

1. The United Nations to give equal attention to all aspects of human rights and to develop methodologies for evaluating the various types of human rights. This would be consistent with the letter and the spirit of the principal human rights documents formulated by the United Nations itself. The United Nations should also avoid a selective approach in the monitoring of human rights violations.

2. The United Nations to increase the budget, strengthen personnel resources and upgrade administrative structures connected with human rights work. There should be more effective monitoring of human rights violations brought to the attention of the United Nations Commission on Human Rights. In this connection, NGOs should be allowed to play a more important role in documenting, investigating and monitoring human rights violations. The role they have played so far in the development of human rights standards should also be acknowledged.

D. Asian NGOs hope that the World Conference will encourage:

1. NGOs in the North to use the democratic space available in their societies to increase public awareness of how Northern control and domination of the international system curbs and curtails the basic human rights of people in Asia.

2. Asian NGOs to continue their struggle against oppression and exploitation in their own societies and control and domination within the international system which threaten, in different ways, the human rights and human dignity of millions of human beings in Asia.

Conclusion

13. Whatever the state of human rights in various parts of Asia today, Asian NGOs are deeply conscious of the fact that the values and principles which have inspired the rights of the human being are very much a part of the illustrious moral and spiritual traditions of the continent. Indeed, it was in Asia, at the very dawn of history, that the quest for human dignity first began. As we enter the 21st century, Asia should seek to fulfil its destiny by ensuring the triumph of human rights and human dignity.

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STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Note by the Secretariat

Addendum

Contributions by parliamentarians and women's organizations

1. The attention of the Preparatory Committee is drawn to the petitions, resolutions and letters presented by parliamentarians and women's organizations representing millions of women from around the world urging the World Conference on Human Rights to consider the violation of women's rights, and especially gender violence as international human rights issues. The signatories of these communications have requested special protection for women and children during war, special attention for women refugees and women seeking asylum; they also request the World Conference to recognize women's equality as a significant human rights issue which should be subject to the implementation methods and mechanisms of relevant United Nations treaties.

2. These communications have been received from the General Arab Women's Federation, and from women and organizations from Brazil, Canada, Germany, Iceland, Philippines, Sweden, Switzerland and the United States. Because of the great number of letters and petitions received, the Secretariat is not in a position to reproduce them as an official document. They may however be consulted in the files of the Secretariat.

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STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Note by the Secretariat

Addendum

Contribution submitted by the secretariat of the International Year of the World's Indigenous People

The attention of the Preparatory Committee is drawn to the attached contribution containing comments and recommendations provided by the secretariat of the International Year of the World's Indigenous People. These comments and recommendations are related to the six objectives listed in document A/CONF.157/PC/20 and to the nine draft studies addressing these objectives.

General comments

1. General Assembly resolution 45/155 identifies six objectives of the World Conference on Human Rights. Nine draft studies addressing these objectives were distributed in January 1993 for comments by staff members and a meeting was held in early February to discuss the papers. No commentary has been made by the staff responsible for the indigenous peoples' programme either in writing or orally on the contents of the papers or about the objectives of the Conference itself. The following comments are offered so that they can be included, if so desired, in the final background documents of the Conference.

2. It should be noted that only three of the papers make any reference to the question of indigenous peoples. In two of the papers there are brief en passant comments; in the third paper, dealing with future organization of the Centre for Human Rights, there is a description of the main activities being undertaken by the Centre. This is, in the view of those of us working on the indigenous peoples' programme, an omission. It may be worth making the following points:

(a) Indigenous peoples is an item on the agenda of the World Conference;

(b) 1993 is the International Year of the World's Indigenous People;

(c) The Working Group on Indigenous Populations is the third largest human rights meeting for which the Centre is responsible (after the Commission and Sub-Commission);

(d) The draft declaration on the rights of indigenous people is one of only two standard-setting activities being handled by the Centre;

(e) The views of indigenous people on a wide range of issues - development, environment, culture, human rights, democracy, participation in the United Nations system, etc. - offer important perspectives of a general nature;

(f) The 300 million indigenous people living in more than 70 countries is the single most disadvantaged group in the world.

Objective 1

> "To review and assess the progress that has been made in the field of human rights since the adoption of the Universal Declaration of Human Rights and to identify obstacles and ways in which they can be overcome to further progress in this area" (resolution 45/155, para. 1 (a))

3. There has been virtually no progress made in the field of human rights for indigenous peoples at the international level. The two exceptions are the ILO's Conventions No. 107 (1957) and No. 169 (1989) which are only binding on those countries which have ratified, 27 and 4 respectively. A number of steps have been taken by the United Nations to begin the process of protecting and promoting indigenous peoples' rights. These include the preparation of a study by a Special Rapporteur of the Sub-Commission on discrimination against indigenous populations (the Cobo report), the establishment since 1982 of a Working Group on Indigenous Populations to review developments and elaborate standards, the creation of a Voluntary Fund for Indigenous Populations to assist indigenous people attend the Working Group, and the proclamation by the General Assembly of an International Year together with a special fund

4. A draft declaration has been elaborated by the Working Group on Indigenous Populations and may be completed by July 1993. As it stands, it contains many of the elements indigenous people believe are important. There has been a high level of active participation of indigenous people and the

Working Group members have tried to reflect their concerns as far as possible. However, of great concern to all indigenous people is the future both for the draft declaration and the Working Group. Will indigenous people be able to participate fully and equitably when the draft declaration is considered by the Commission? Will the text of the draft declaration be changed substantively and will it become weaker and, therefore, ineffective in protecting the rights of indigenous people? What will happen to the Working Group, the only forum in the United Nations system addressing indigenous peoples' questions, and its work on review of developments and its studies, when the draft declaration moves to the Commission?

5. The first question being asked by indigenous people is, thus, not what prevents further progress in human rights, but how can they save the few small gains they have made? It is, therefore, recommended that the background papers for the Conference include a strong endorsement of the draft declaration, the Working Group and the studies and other work undertaken in this area.

Objective 2

> "To examine the relation between development and the enjoyment by everyone of economic, social and cultural rights as well as civil and political rights, recognizing the importance of creating the conditions whereby everyone may enjoy these rights as set out in the International Covenants on Human Rights" (resolution 45/155, para. 2 (b))

6. Indigenous people have sometimes been identified as the victims of progress. Development for many indigenous people means invasion of their territories by settlers, ranchers and miners, displacement without notice or compensation, destruction to their environment, sacred sites and subsistence base, and degradation of their cultures. Development is bad news for many indigenous people. Development violates their economic, social and cultural rights as well as their civil and political rights. What is development for some can be ethnocide for others.

7. Indigenous people are not opposed to development as such. But many national development plans take place without consultation with indigenous people and bring no benefits to them. Some of these projects are presently funded by multilateral financial institutions. There is now a recognition of the need to promote sustainable development by protection of the environment and the sustainable use of resources but no explicit prevention of development which may be destructive to indigenous or other people. The draft declaration on the rights of indigenous people creates a framework for a relationship between indigenous people and the development process based on consent, protection of lands and respect for the environment. The relationship is expressed in the Final Declaration of the United Nations Conference on Environment and Development (UNCED) and Chapter 26 of Agenda 21.

8. It is recommended that the paper dealing with objective 2 includes reference to the negative impact of certain forms of development especially

on indigenous people and urges that indigenous people are involved in the planning, implementation and evaluation of all development projects affecting them.

Objectives 3 and 4

"To examine ways and means to improve the implementation of existing human rights standards and instruments" (resolution 45/155, para. 2 (c))

"To evaluate the effectiveness of the methods and mechanisms used by the United Nations in the field of human rights" (resolution 45/155, para. 1 (d))

9. Notwithstanding the need to elaborate rights taking into account the specific situations of indigenous people, existing rights offer considerable protection if they are implemented. None the less, indigenous people suffer human rights violations in many countries. In part this is because indigenous people are a vulnerable group in society with little political or economic leverage; in part because, generally speaking, indigenous people are unaware of the protection accorded them in national laws and international human rights standards.

10. The existing United Nations mechanisms for the protection of human rights do not bring sufficient benefits to indigenous people. Indigenous people are not able to participate in the major human rights meetings because the vast majority do not belong to non-governmental organizations in consultative status with the Economic and Social Council; they are not invited to provide information to the treaty bodies; they use only rarely the special procedures established under the Covenants.

11. It is recommended that the papers covering objectives 3 and 4 examine how particular target groups including indigenous people can receive greater information about the United Nations and its human rights protection in their own languages and benefit from training courses. It is also recommended that the papers make suggestions about how indigenous people can participate in all meetings of the United Nations which affect them and be invited to provide information to the United Nations treaty bodies and other relevant monitoring committees.

Objective 5

"To formulate concrete recommendations for improving the effectiveness of United Nations activities and mechanisms in the field of human rights through programmes aimed at promoting, encouraging and monitoring respect for human rights and fundamental freedoms" (resolution 45/155, para. 1 (e)

12. One of the purposes of the International Year is to examine how the United Nations can improve its effectiveness and provide a better service to indigenous people. A series of consultations of the United Nations system and indigenous people are taking place so that different ideas and suggestions can be gathered. The Working Group on Indigenous Populations is one such forum

but the two technical meetings on the International Year and the informal meeting of the United Nations agencies and indigenous peoples of 11 December 1992 (following the inauguration of the Year in New York) have also produced a number of recommendations. Other suggestions are being made in the informal contacts of the Centre for Human Rights and indigenous organizations and through correspondence. Based on these sources, it is possible to make some concrete recommendations.

Participation

13. A major obstacle to the full enjoyment of human rights of indigenous people is the difficulty of participation in the United Nations and its organs. This will become increasingly critical as the draft declaration passes through the parent bodies of the Working Group. A number of suggestions have been made: (a) revise ECOSOC resolution 1296 (XLIV) of 1968 to allow participation of indigenous peoples' organizations on the same basis as NGOs: (b) establish a United Nations register of indigenous peoples' organizations and nations which could be used as the basis for participation in all relevant United Nations meetings; (c) consider how representatives of indigenous people can enjoy observer status as it is accorded to the ANC, PLO, ICRC, etc.; (d) develop and encourage a policy of recruitment of qualified indigenous people into the United Nations and its agencies; (e) establish a high-level task force of indigenous people to advise the United Nations on policy making.

Standard setting

14. Many indigenous people are of the opinion that if the draft declaration is adopted by the Working Group, it should move rapidly to the General Assembly. This decision will be taken by the Commission and not the Centre. However, the secretariat can play a role in helping raise awareness and understanding of the draft declaration in the following ways: (a) by holding future annual meetings of the Working Group in Asia and Latin America; (b) by printing copies of the draft declaration in indigenous languages; (c) by supporting workshops on the draft declaration in indigenous areas; (d) by preparing a lay-person's commentary on the draft declaration.

Implementation of human rights standards

15. The focus of the World Conference is on implementation and, therefore, some thought should go into possible improvements of mechanisms relating to indigenous people. A number of suggestions have been made by indigenous people: (a) the draft declaration could contain some implementation mechanism; (b) the Working Group, with its review of developments mandate, could produce an annual report on the situation of indigenous people; (c) the secretariat could inform indigenous people on an ongoing basis about the human rights meetings taking place so that they can participate and provide information; (d) an ombudsperson or United Nations commissioner to investigate human rights violations against indigenous people and to help in arbitration between States and indigenous people could be appointed.

Coordination of the United Nations system

16. The purpose of the International Year is to increase international cooperation to solve some of the problems faced by indigenous people. Coordination of the United Nations system is considered by governments, indigenous people and the responsible United Nations officials as vital to any long-term improvements. A number of suggestions have been made in this connection: (a) the establishment of focal points in all United Nations agencies for indigenous people; (b) the creation of a panel of indigenous experts to advise and provide assistance to United Nations agencies; (c) the establishment of a permanent body in the United Nations to provide advice, coordination and information regarding indigenous people; (d) establishment of a database on indigenous people and their economic and social situation to assist planning of programmes.

An integrated United Nations programme

17. Indigenous people have argued that the International Year should signal the beginning of a major new thrust in United Nations action in all areas including human rights, development, technical assistance, environmental protection, cultural activities and so on. A number of ideas have been floated about what such a programme might contain. They include the following suggestions: (a) the establishment of a decade for indigenous people from 1994 to 2003 to strengthen the processes begun during the International Year; (b) the holding of a high-level conference on indigenous people; (c) the establishment of a permanent fund to assist indigenous people directly through technical and project assistance; (d) holding a world indigenous trade fair to open up self-development opportunities.

Objective 6

> "To make recommendations for ensuring the necessary financial and other resources for United Nations activities in the promotion and protection of human rights and fundamental freedoms (resolution 45/155, para. 1 (f))

18. At present the United Nations provides virtually no human, financial or logistical resources for work on indigenous people. The Centre for Human Rights is the focal point for all indigenous matters within the United Nations and, thus, receives every communication, inquiry and call. Yet the United Nations provides only one staff member (on a temporary basis since 1 April 1991), one secretary who can devote only about one third of her time to indigenous peoples, one office 4 m x 5 m, and no budget. If the Centre receives 0.7 per cent of the total United Nations budget then it can be assumed that indigenous people get 0.007 per cent set aside to serve them. The 300 million indigenous people in the world are the most underserved group in the United Nations and when compared with other groups - refugees, children, women, etc. - can be said to be ignored by the international community

19. It may be noted that the Centre for Human Rights together with the ILO has always played a leading role in developing indigenous peoples' rights. The Working Group is the single largest international gathering of indigenous

people in the world. Its mandate allows it to cover a wide range of issues from development and cultural to human rights questions. The fact that the Centre has been designated the coordinating body for the International Year - the first time the Centre has been designated for any Year - is an indication of its vital leadership role. It is, therefore, important that the United Nations and the Centre invest far greater resources into its indigenous peoples' programme.

20. There are a number of broad areas where improvements could be made: (a) a unit or office for indigenous people within the Centre could be established; (b) staffing could be increased through regular allocations, secondment of indigenous people by governments, associate expert programmes and fellowship grants; (c) a communications system including telefax and electronic mail facilities could be established to improve the contacts with indigenous organizations; (d) a research component of the indigenous peoples' programme could be developed to assist coordination in the United Nations system; (e) a budget line for indigenous people needs to be established in the regular human rights programme and supplemented through voluntary funds for specific forms of assistance; (f) a three-five year programme should be developed.